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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 25th April, 1986:—

I

BILL NO. VIII OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1986.

Amendment of article 368.

2. In article 368 of the Constitution,—

(*i*) in clause (*1*) after the words "in this Constitution" the words "but subject to clause (5)" shall be inserted;

(*ii*) For clause (5) the following clause shall be substituted, namely:—

"(5) For the removal of doubts, it is hereby declared that the power of Parliament to amend the Constitution shall not extend to making any amendment affecting its basic structure which shall mean and include—

(*a*) democratic form of Government;

(b) secular character of the Constitution;

(c) separation of powers between the Legislature, the Executive and the Judiciary;

(d) the federal character of the Constitution; and

(e) the dignity and freedom of individual".

STATEMENT OF OBJECTS AND REASONS

There are sharp differences of opinion in the country on the scope of the power of Parliament to amend the Constitution. This question is repeatedly raised in various fora and divergent views are expressed. It is, therefore, necessary to settle the scope of Parliament's power of amending the Constitution under article 368.

It is generally agreed that the basic features of the Constitution, namely secularism, democracy, federalism and the freedom of the individual would always subsist in a democratic State.

The amending power of Parliament derived from article 368 of the Constitution cannot be used, as clearly stated in the Supreme Court judgement in the famous Keshavanada Bharati's case, to destory or abrogate the basic structure, or framework of the Constitution. If this position is not so accepted, a political party with the requisite two-third majority in Parliament could so amend the Constitution as to debar any other political party from functioning, establish totalitarianism, destroy the federal and secular character of the Constitution and democratic form of Government and after having effected these purposes, make the Constitution unamendable or extremely rigid.

Hence this Bill.

BAPU KALDATE

II

BILL NO. XVI OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-Seventh Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1986.

Amendment of article 156.

2. In article 156 of the Constitution, in clause (*1*) after the words, "the President" the words, figure and letter "unless he is removed form office by impeachment in the manner provided in article 159A, " shall be inserted.

3. After article 159 of the Constitution, the following article shall be inserted, namely :—

Procedure for impeachment of Governor.

"159A. (*1*) A Governor shall be impeached for the violation of the Constitution or on the ground of proved misbehaviour or in-capacity.

(*2*) No charge for the impeachment of a Governor shall be preferred by the House or by either House of a Legislature of a State, as the case may be, unless—

(*a*) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days notice in writing signed by not less than one-tenth of the total number of members of the Houes or either House of the State Legislature has been given of their intention to move the resolution ; and

(*b*) such resolution has been passed by a majority of the total membership of the concerned House.

(*3*) When a charge has been so preferred by the House or either House of the State Legislature, the House itself or the other House, as the case may be, shall investigate the charge or cause the charge to be investigated and the Governor shall have the right to appear and to be represented at such investigation.

(*4*) If as a result of the investigation a resolution is passed by a majority of the total membership of the House by which the charge was investigated or caused to be investigated declaring that the charge preferred against the Governor has been sustained, such resolution shall have the effect of removing the Governor from his office as from the date on which the resolution is so passed".

STATEMENT OF OBJECTS AND REASONS

The Union and the States must function on mutually complementary and co-operative basis. Office of the Governor of a State is a very important office for the success of democratic Governments in the States. On his impartiality and integrity depend the autonomy of the States and the operation and maintenance of Centre-State relations. There have been instances of unfortunate criticism in the past that the Governors are forced to function as agents of the Union Government. In a case, the Supreme Court has held that the Governor is "not amenable to the directions of the Government of India, nor is he accountable to them for the manner in which, he carries out his functions and duties. His is an independent constitutional office which is not subject to the control of the Government of India."

The Governor's power to appoint or dismiss a Chief Minister and dissolve the State Assembly has on several occasions been used to flout the democratically expressed will of the people.

Dr. B. R. Ambedkar had remarked in the Constituent Assembly that "the position of the Governor is exactly the same as the position of the President." It, is, however, noteworthy that in our Constitution there is a provision for removing the President by a process of impeachment but there is no such provision for impeachment and removal of Governors. It is felt that the Constitution should be amended so as to incorporate therein provisions for the impeachment and removal of the Governors also.

Hence, this Bill.

SATYA PRAKASH MALAVIYA

SUDARSHAN AGARWAL,
Secretary-General.

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